

Attorney Docket: 24795
Serial No.: 09/937,848
Filed: January 18, 2002

In the claims:

Please cancel claims 26-58 and introduce newly submitted claims 59-93 as per attached with this response. Newly submitted claims 59-64 correspond to previously submitted claim 49-53 and 55, respectively. Further, claims 65-78 and 80-93 are method claims equivalent to claims 32-45. Lastly, claim 79 corresponds to claim 56.

SUMMARY OF RESTRICTION REQUIREMENT

Invention Groups. The Examiner has required restriction of claims 26-58 to a single disclosed species under 35 U.S.C. 121.

As the basis for this restriction requirement, the Official Action states the following:

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. Group I, claim(s) 26-37, 44-46, drawn to a cosmetic composition comprising an extract of *Skeletonema costatum*. Group II, claim(s) 26-28, 47-48 drawn to a cosmetic composition comprising boldine. Group III, claim(s) 32, 38-43, drawn to a method of making a composition comprising *Skeletonema costatum*. Group IV, claim(s) 49-53, 55-56, drawn to a method of applying to the skin a composition comprising *Skeletonema costatum*. Group V, claim(s) 49-52, 54, 55-58, drawn to a method of applying to the skin a composition comprising boldine.

PROVISIONAL ELECTION

Applicants provisionally elect the invention of Group IV above, with traverse. Newly submitted claims 59-93 are readable on the elected invention.

TRAVERSAL

Applicants respectfully traverse the Examiner's restriction

requirement.

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First, the restriction requirement is traversed because it omits "an appropriate explanation" as to the existence of a "serious burden" if a restriction were not required. See MPEP 803. Regardless of any differences which may exist between the inventions set forth in the different groups, a complete and thorough search for the invention set forth in any one of the groups would require searching the art areas appropriate to the other groups. Since a search of each of the inventions of the groups would be coextensive, it would not be a serious burden upon the Examiner to examine all of the claims in this application.

Further at the Examiner's disposal are powerful electronic search engines providing the Examiner with the ability to quickly and easily search all of the claims. Considering that the Examiner will most likely undertake a search for the power plant of claim 34, searching for the power plant of other independent claims would be minimally burdensome on the Examiner.

Moreover, given the overlapping subject matter and identical classifications of the species, examinations of all the invention groups would not pose a serious burden because they would be coextensive. Further, the fact that various claims may fall under different U.S. Patent and Trademark Office classes does not